

CALIFORNIA COASTAL COMMISSION

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49th Day: 9/10/01
180th Day: 1/18/02
Staff: AJP-LB
Staff Report: 10/23/02
Hearing Date: 11/13-16/01
Commission Action:



TU 13b

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-01-196

APPLICANT: RAND Corporation

AGENT: Bonnie Holmes

PROJECT LOCATION: 1700 Main Street, Santa Monica

PROJECT DESCRIPTION: Construct five-story, 69 foot high (as measured from centerline of frontage road), 320,409 gross square foot building for institutional use, over four levels of subterranean parking providing 825 spaces; new public street (Vicente Terrace) connecting Main Street and Ocean Avenue; restriping of roadway lanes, and a public pedestrian walkway, on a 3.7 acre site.

Lot Area:	163,173 square feet
Building Coverage:	67,226 square feet
Pavement Coverage:	32,165 square feet
Landscape Coverage:	63,447 square feet
Parking Spaces:	825
Ht above Avg nat. grade:	72 feet
Zoning:	Civic Center District

LOCAL APPROVALS RECEIVED: Approval in Concept; Development Agreement between the City of Santa Monica and RAND Corporation

SUBSTANTIVE FILE DOCUMENTS: Development Agreement between the City of Santa Monica and RAND Corporation; RAND Corporation Headquarters Building, Final Environmental Impact Report, August 2000.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions on the basis that the project, as conditioned, conforms with the public access and resource protection policies of the Coastal Act. Special Conditions include submittal of a temporary parking plan; participation in a parking, car pool and transit incentive program; water quality mitigation; archaeological

resource recovery plan; and notice to the applicant that the Development Agreement needs Commission approval to be effective in the Coastal Zone.

STAFF RECOMMENDATION:

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-01-196:

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit #5-01-196 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be

pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Parking, Car Pool and Transit Incentive Program

a) The applicant shall provide for a parking, carpool and transit incentive program as follows:

(1) The applicant shall actively encourage employee participation in a Transportation Ride Sharing.

(2) A public transit fare reimbursement program shall be implemented by the applicant. The system shall be in effect for at least a 30-year period. The applicant shall provide for partial reimbursement to one hundred percent of the employees of the development for public transit fare to and from work.

(3) The applicant shall provide a bicycle parking area, free of charge, on the property.

(4) The applicant shall implement a publicity program, the contents of which is subject to the review and approval of the Executive Director, that indicates how the future occupants of the development will be made aware of the provisions of this special condition. The publicity program shall be implemented during the first month of occupancy of the new development.

b) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development within the applicant's parcel or parcels. The deed restriction shall include legal descriptions of the applicant's entire parcel or parcels. The

deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Interim Parking

Prior to issuance of the permit, for the review and approval by the Executive Director, the applicant shall provide temporary parking plans indicating the location and number of the temporary parking spaces, attendant parking and hours of availability. A minimum of 291 relocated parking spaces shall be provided. The existing parking spaces within the other RAND parking lots shall remain. Furthermore, the applicant shall agree in writing that the relocated parking will be available and maintained during the construction period, or until the parking in the new building is made available. If portions of the parking spaces within the new building become available for use, the applicant can proportionately reduce the number of temporary spaces provided under the temporary parking plan.

3. Dewatering of Groundwater

Prior to issuance of the permit, for the review and approval by the Executive Director, the applicant shall agree in writing that any required dewatering of the site due to groundwater intrusion, or percolating surface water, during construction or post-construction will require filters to be installed on all dewatering pumps and sump pumps.

4. Water Quality Standards

With the acceptance of this permit the applicant agrees to comply with all applicable City of Santa Monica water quality requirements as required under the City's Municipal Code that are in effect at the time of approval of this permit.

5. Archaeological Resources

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall agree in writing, subject to the review and approval of the Executive Director, to the following:

A. Native American Monitor.

If historic artifacts are discovered, a Native American monitor shall be present on-site during all excavation activities to monitor the work. The monitors shall meet the requirements set forth in the Native American Heritage Commission Guidelines for Monitors/Consultants of Native American Cultural, Religious, and Burial Sites.

B. Review of Treatment Plan.

In the event that cultural resources are discovered and a Treatment Plan (mitigation plan) is prepared, the Treatment Plan shall be submitted to the Executive Director for review and approval. Based on the mitigation procedures outlined in the Treatment Plan, the Executive Director will determine if an amendment to this permit is required.

C. Curation Facility.

1. Artifacts collected as a result of this project shall be curated at a qualified curation facility, such as the Los Angeles County Museum of Natural History. A qualified curation facility is one that meets the State Office of Historic Preservation Guidelines for Curation of Archaeological Collections.

2. Prior to completion of archaeological work at the site the applicant shall submit, for the review and approval of the Executive Director, evidence that:

(a) the curation facility meets the State Office of Historic Preservation Guidelines for Curation of Archaeological Collections; and

(b) evidence of the facility's willingness to accept the collection.

3. If no qualified curation facility is available at the time the project is complete, an amendment to this permit shall be required to determine the appropriate curation process.

6. Development Agreement

With the acceptance of this permit, the applicant is placed on notice that the Development Agreement is an agreement between the applicant and the City, and is not effective in the Coastal Zone, until the Development Agreement is formally submitted and approved by the Coastal Commission.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to construct a five-story, 69 foot high (as measured from centerline of frontage road), 320,409 gross square foot building for institutional use, over four levels of subterranean parking providing 825 spaces; new public street (Vicente Terrace) connecting Main Street and Ocean Avenue; and a public pedestrian walkway, on a 3.7 acre site. The project will also include roadway improvements to provide additional turn lanes along Main Street and Ocean Avenue, at Pico Boulevard.

The proposed project is located on the west side of Main Street, north of the intersection of Main Street and Pico Boulevard, in the City of Santa Monica (see Exhibit No 1, 2, and 3). The site is presently the location of the existing RAND Corporation south paved parking lot.

The surrounding area is developed with the existing two and five-story RAND Corporation building to the north, a multi-story hotel to the south, the Santa Monica Civic Auditorium and County Courthouse to the east, and a vacant three-story apartment building to the west.

The RAND Corporation and the City of Santa Monica have entered into a Development Agreement, which in part, requires RAND to demolish the old building once the new building has been constructed. A separate permit application (CDP application No. 5-01-209) has been filed by the City and is concurrently before the Commission.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District), and the Civic Center/RAND area. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

B. RAND Property History

Since the early 1950's the RAND Corporation has owned and occupied approximately 15 acres located between Ocean Avenue to the west, Main Street to the east, the I-10 Freeway to the north and Pico Boulevard to the south. The existing RAND building is a two and five story, 295,000 square foot building along Ocean Avenue and Main Street. The building covers approximately 40 percent of the 15 acre site. The remaining property is comprised of surface parking lots and several dilapidated and abandoned buildings.

In early 2000, RAND and the City of Santa Monica entered into a Development Agreement (DA). As part of the DA, RAND sold 11.3 acres of the 15 acres to the City (Santa Monica Redevelopment Agency) and retained 3.7 acres for the construction of the new RAND building. RAND has leased back from the City most of the 11.3 acres through mid 2004, and will occupy the existing building until its new facility is completed.

RAND is a nonprofit national and international “think Tank” institution that assists policy and decision making through research and analysis. It was created in 1946, by their original client, the U.S. Air Force (then the Army Air Forces). Today, RAND's work involves assisting all branches of the U.S. military community, and applying expertise to social and international issues.

C. Development

Section 30250 of the Coastal Act states in part that:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30251 of the Coastal Act states in part that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed project site is presently the location of the existing RAND Corporation south paved parking lot. The site consists of approximately 3.68-acres. The general vicinity is developed with residential, office, and retail uses. Land uses immediately surrounding the area, include City Hall, a Los Angeles County Court facility, and the Santa Monica Civic Auditorium, all located east of Main Street. To the west of Main Street, land uses include RAND, Chez Jay restaurant, Ocean Lodge Motel, and several vacant parcels that are used as surface parking lots along Ocean Avenue. To the southwest is the Pacific Shores Hotel.

Heights of existing surrounding development vary from approximately 30 feet to over 96 feet in height. Buildings within the Civic Center measure two and three stories, while the Civic Auditorium measures approximately 60 feet in height. The Pacific Shores Hotel, located to the southwest of the proposed site is eight stories and over 96 feet in height. Currently under construction directly to the east of the proposed site is a four story, 57 foot high, commercial office/retail building [5-90-928 (Maquire Thomas Partners)].

The proposed project will consist of five floors and measure approximately 72 feet in height (above average natural grade), with mechanical equipment extending an additional 17 feet. Therefore, the proposed project is compatible in use and scale with existing development and is consistent with past Commission permit action for the area.

The proposed development will be located approximately two and a half blocks from the Santa Monica beach area. The project site is located east of a row of parcels located along the eastern side of Ocean Avenue. Some of these parcels are developed and others will be redeveloped with multiple story buildings. The west side of Ocean is developed with multi-story hotels, motels and other businesses. Because of the project's location and existing development between the project site and the ocean, the proposed building will not have any adverse impacts on public coastal views.

The Commission, therefore, finds that the proposed project will be compatible with the character and scale of the surrounding uses and with Sections 30250 and 30251 of the Coastal Act.

D. Coastal Access

The Commission has consistently found that a direct relationship exists between the provision of adequate parking and the availability of public access to the coast. Section 30211 of the Coastal Act states that:

Development shall not interfere with the public's right of access to the sea where acquired through use of legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities. Section 30252 of the Coastal Act states in part:

The location and amount of new development should maintain and enhance public access to the coast by. . . (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation. . .

Therefore, in order to conform to the requirements of the Coastal Act, the proposed project must provide adequate support parking in order not to negatively impact parking for coastal access. The applicant is proposing to provide 825 on-site parking spaces with a multi-level subterranean parking garage for the 320,409 square foot institutional use building. Because of the unique use, the Commission does not have parking standards for this

particular type of Research and Development use. The closest use applicable to the project would be commercial office.

According to the applicant, there are approximately 887 parking spaces spread over five separate surface parking lots at the RAND facility site (the actual number varies due to unmarked spaces located on gravel lots). The North Lot provides 330 spaces, The South Lot provides 339 spaces, the unpaved West Lot provides 90 spaces, the Lower Lot provides 95 spaces and the unpaved West Annex Lot provides 30 spaces. Of this total, according to City records, 545 spaces were City required support spaces as of 1979.

Based on current parking standards and the City required parking for RAND, the existing use may be under parked, however, because the use was existing prior to the Coastal Act, the use and parking has been grandfathered in. Since 1979, the Commission has approved a number of development projects on the RAND site. One of the projects was for the replacement of ten portable trailers (office use) with 9,282 square feet of factory fabricated office structures [5-85-601 (RAND)]. It was determined that the replacement project would require 22 additional support parking spaces. Therefore, the total existing required support spaces increased to 567 (545 + 22).

The additional parking provided above the City's code requirements, has been used as additional support parking by RAND, and for other leased uses, such as parking for off-site construction projects. According to the applicant, of the approximate total of 887 spaces, 750 spaces are reserved for RAND employees and visitor use, and the remaining 137 are occasionally leased to third parties.

According to the EIR, based on a parking study (*Santa Monica Civic Center Parking Study*, Kaku Associates, 1998) the peak parking occupancy for the existing RAND building is approximately 729 spaces, or approximately 2.5 spaces per 1,000 square feet of floor area. In addition to the study for the EIR, the applicant had a parking consultant, Myer, Mohaddes Associates, Inc., conduct further research into the parking and trip generation characteristics of other institutional uses. The analysis included review of available parking and trip generation data from the Institute of Transportation Engineers (ITE) and other published sources, and contacts with other research and development facilities comparable to RAND.

According to published transportation data (see Exhibit No. 5), the peak parking demand rates for the R&D facilities range from 1.14 spaces per 1000 square feet to 2.07 spaces. These rates range from 26 to 53% less than those for commercial office use. Based on data from other similar R&Ds, including a benchmark study from Stanford Research Institute (SRI), which is considered similar to RAND, the parking provided ranged from 1.1 spaces per 1,000 square feet to 2.68 spaces per 1,000 square feet. These rates are also below the parking rates for commercial office use.

As stated above, the primary functions at RAND are institutional, including research and information dissemination. As such, the operations at RAND are not typical of a commercial office building. RAND employs a high number of personnel/consultants, that work at home, or work part time at the facility. Furthermore, based on a survey conducted for RAND's Emission Reduction Plan (ERP) for the City, it was shown that employees exhibit a high participation rate in ridesharing, transit usage, work at home, and non-motorized forms of commuting. In November 1999, a parking occupancy survey was conducted at RAND's parking lots. An analysis of the parking operations indicate an average demand of 681 spaces, with a weekday high of 695 spaces.

The new RAND building will provide 825 parking spaces, a ratio of 2.57 spaces per 1,000 square feet. This ratio is greater than the ITE rate for research centers and is near the upper range from the benchmark study from Stanford Research Institute.

As proposed, the RAND building will provide approximately 25,409 square feet (or 8.6%) more than the existing building square footage. However, according to RAND, it is not anticipated that RAND's current 1,044 employee work force will increase. The increase in square footage is necessitated by the age of the existing building and inadequate space provided by the existing building for the existing employees. The new building will improve the office space, library and meeting rooms, and employee amenities, such as the cafeteria. The RAND building will provide 825 parking spaces, an increase of 96 spaces from their peak occupancy (*Santa Monica Civic Center Parking Study*, Kaku Associates, 1998). The parking ratio also increases from 2.47 (based on peak demand) to 2.57 spaces per 1,000 square feet. Therefore, the proposed development will provide adequate parking to meet the current demand of the proposed development and will not adversely impact beach access.

However, during construction of the new building, RAND will continue to operate in the existing building. Because of the siting of the new building, 339 parking spaces in the south parking lot will be impacted during the construction of the new building. The applicant proposes to temporarily relocate these spaces to other areas of the property and will use attendant assisted stack parking in some areas of their property to maximize the number of spaces. Under the Development Agreement, the City will demolish two former RAND buildings along Ocean Avenue, and the area will be used by RAND as temporary additional parking. Through these measures 291 parking spaces of the 339 displaced will be relocated. Moreover, to further mitigate the potential impact during construction RAND will intensify its Transportation Demand Management program (a City required program to minimize vehicle trips and reduce emissions) and increase ride-sharing and encourage employees to work at home during the construction period. Therefore, the temporary impact due to loss of parking during construction will not be significant. However, to ensure that additional temporary parking is provided during the construction period, the applicant shall provide temporary parking plans indicating the location of the temporary parking spaces, including attendant parking. Furthermore, the applicant shall agree in writing that

the relocated parking will be available and maintained during the construction period, or until the parking in the new building is made available.

In past Santa Monica permit action the Commission has required that parking facilities of commercial development that provide 10 or more parking spaces, be made available to the general public when the business is not in operation during the week and weekend. This increases the availability of public parking and reduces the impact that projects have due to increased traffic and parking demands in the area. The proposed development will be a non-priority type use and would generate traffic that could adversely impact beach access. However, requiring public access to the building during typical non-business hours poses security problems. As stated, RAND does not function as a typical office use. A portion of RAND's work force operate on a 24 hour, 7 day per week schedule. Moreover, RAND is a high-security institution, due to the military and governmental work involved. Allowing the general public access to the building will present significant security issues (see Letter from Garth Pettijohn, Supervisory Special Agent of the Protective Liaison Section, Exhibit No. 6). Therefore, due to the type of use and security issues, it is not appropriate to require parking to be available to the public after normal business hours and during the weekend. However, the increase in development within the Coastal Zone will increase the amount of traffic in the area and the Commission has also required that businesses participate in a parking and transit incentive program to mitigate traffic impacts. Therefore, to mitigate any impacts due to traffic the applicant shall agree to participate in a parking, car pool and transit incentive program to encourage employees to use alternative means of transportation.

The Traffic study included in the EIR, indicates that there will be traffic impacts to nearby intersections, and identifies measures to mitigate the impacts. These measures include modifications to intersection striping to provide additional turn lanes. These measures have been incorporated into the project and are required by the City. To further minimize traffic impacts to the surrounding streets, the project will provide two ingress and egress points. One will be from Main Street and the second will be from the new street: Vicente Terrace. The Main Street entrance will provide dual ingress lanes with adequate setback from the street to provide for on-site queuing of vehicles. Vicente Terrace, which will be located along the southern portion of the project site, will be improved as a 25-foot wide roadway with landscaping and walkway, to provide through access from Main Street to Ocean Avenue. Vicente Terrace will provide the general public a new vehicular and pedestrian route from the Civic Center/Main Street area to Ocean Avenue. This also will help minimize traffic impacts to the nearby existing intersections.

In addition to the roadway improvements, the proposed development will include a pedestrian walkway around the northwesterly portion of the property from Main Street to First Court alley, which is located to the west of the property, midway between and parallel to Main Street and Ocean Avenue (see Exhibit No. 3). This walkway will provide an alternative pedestrian route to Ocean Avenue, which leads to access points to the beach.

The Commission, therefore, finds that, as conditioned, the project will not adversely impact coastal access and will be consistent with Section 30211 and 30252 of the Coastal Act..

E. Control of Polluted Runoff

Section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project poses a potential source of pollution due to contaminated runoff from the proposed parking lot and other hardscape. The City, to mitigate potential impacts, has adopted an Urban Runoff Ordinance. The ordinance requires projects to incorporate best management practices with extensive recommendations and measures to reduce or prevent contaminants from running off the site. The City requires all new development to achieve twenty- percent reduction of the projected runoff for the site and the use of oil and water separators or clarifiers to remove petroleum-based contaminants and other pollutants. Furthermore, the City has a new state-of-the-art stormwater treatment facility that treats all dry weather storm runoff. Runoff from all new development is directed to existing stormdrains, which direct stormwater to the treatment facility.

Coastal Commission water quality staff has previously reviewed the City of Santa Monica's water quality standards for similar projects and have determined that the City's standards are consistent with standards imposed by the Commission.

However, unlike previous Commission approved projects, this proposed project involves a significant amount of excavation. A potential water quality problem can come from

excavation for the underground parking garage. Based on test borings, groundwater was found at depths of 47 to 50 feet below grade. The proposed subterranean structure is proposed at a depth of approximately 33 feet below grade. As proposed, the applicant's consultants state that the depth of construction will not adversely impact the groundwater. Although the structure will be above the level of the groundwater, future groundwater levels may rise above the base of the structure during construction and require dewatering. In addition, groundwater and/or percolating surface water may collect in the bottom of the parking structure after construction.

If groundwater is to be pumped during construction, the EIR states that a National Pollution Discharge Elimination System (NPDES) permit or a sanitary sewer discharge permit will be obtained from the Regional Water Quality Control Board or the Sanitary District. However, to ensure that the dewatering does not adversely impact water quality by introducing sediments or other contaminants into coastal waters, via the storm drain, a special condition is necessary requiring the applicant to provide the installation of filters on all dewatering pumps and sump pumps. Therefore, only as conditioned will the proposed project be consistent with past Commission action with regards to water quality requirements and minimize water quality impacts. To ensure that the development complies with the City requirements, a special condition is necessary that requires the applicant to agree to comply with the water quality requirements of the City. The Commission, therefore, finds that, as conditioned, the development will be consistent with Section 30230 and 30231 of the Coastal Act.

F. Cultural Resources

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The proposed site is currently developed and has been disturbed in the past. According to the EIR archaeological records indicate the presence of two prehistoric sites within a one-mile radius of the Civic Center area. The EIR states that the potential for archaeological resources is small due to past development of the site, there is a remote possibility of a deeply buried site being uncovered during excavation.

In past permit action, the Commission has required the applicants to monitor all grading and construction activities and required appropriate recovery and mitigation measures, regarding excavation, reporting and curation. To ensure that the project is consistent with Past Commission action, special conditions are necessary to ensure consistency with the Coastal Act. To assure that the proposed project remains sensitive to the concerns of the affected Native American

groups, a Native American monitor should be present at the site during all excavation activities to monitor the work, if artifacts or remains are discovered. The monitor should meet the qualifications set forth in the NAHC's guidelines. Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

Once a site is determined to contain significant cultural resources a Treatment Plan (Mitigation Plan) will be prepared and reviewed by the appropriate Federal and State reviewing agencies. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To determine whether the Treatment Plan is consistent with the proposed permit or if an amendment to this permit is required, the applicant shall submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavation required or there is a significant change in area of disturbance or change in the type of excavation procedures.

In the event that grave goods are found the Los Angeles County Coroner's Office will be notified in compliance with state law, and they in turn will request the Native American Heritage Commission to determine the cultural affiliation.

The Commission's Archaeological Guidelines also recommend that the research design include arrangements for curation of collections when appropriate, and dissemination of the research findings. Regarding curation, there must be some assurance that the collection and related field records, catalogs and reports will be properly curated. Without proper curation there is no assurance that the value of information obtained will be retained in perpetuity. A qualified curation facility is one that meets the State Historic Preservation Office (SHPO) guidelines, such as the San Bernardino County Museum. However, there is no guarantee that the facility will be able to accept the collections once the artifacts are ready for curation. Consequently, if another facility is available that meets SHPO's guidelines, it would also be appropriate to allow curation to occur there. In any case, curation of any significant artifacts must be assured in order to find that the proposed project meets Section 30244 of the Coastal Act's requirement for reasonable mitigation. Therefore, as a condition of approval, artifacts of significant cultural value collected as a result of this project at the archaeological sites shall be curated at a qualified curation facility. If no qualified curation facility is available at the time the project is complete, an amendment to this permit shall be required to determine the appropriate curation process. The Commission finds, therefore, that as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act.

G. Local Coastal Program

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed

development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District), and the Civic Center/RAND area. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

Under the City's current zoning, the proposed new use is a permitted use. As conditioned the project will not adversely impact coastal resources and beach access. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. Development Agreement

California Government Code Section 65869 stipulates that development agreements shall not be applicable to development in the coastal zone unless, prior to certification of the local coastal program ("LCP") for the jurisdiction in which the development is located, the Commission, through formal action, approves the development agreement.

Since the LCP for the City of Santa Monica has not been certified, the Commission will have to approve the development agreement before the agreement can be effective. The Development Agreement is currently not before the Commission. The applicant has submitted the Development Agreement as a background document as part of the application for the Coastal Development Permit. Therefore, a special condition is necessary placing the applicant on notice that the development agreement is an agreement between the applicant and the City, and is not effective in the Coastal Zone.

I. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, all potential adverse impacts have been adequately mitigated. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.